

P.O. Box 951
Eagle Pass, TX 78853
October 23, 2011
gbaxterep@yahoo.com

Office of the Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, TX 78711-3087

**Reference: Docket No, 2011-1565-IWD
Dos Republicas Coal Partnership
Permit No. WQ0003511000**

CHIEF CLERKS OFFICE

2011 OCT 24 PM 4:02

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Dear Sir or Madam:

I am writing to request a reconsideration of the Executive Director's decision to not hold a contested case hearing in regard to the application of the Dos Republicas Coal Partnership (DRCP) to operate a mine in Maverick County, TX, Permit No. WQ0003511000.

I have requested a contested hearing in a timely manner and the Executive Director (RD) has recommended that I have substantially complied with the necessary requirements. I also hold party status with the Texas Railroad Commission (RRC) in regard to this same applicant and the same proposed mine.

My name and address are: George Baxter
P.O. Box 951
Eagle Pass, TX 78853

Telephone: 830-773-6480

I am basing this request for reconsideration on the following factors:

1) 30 TAC 55.201(i) provides that there is no right to a hearing on a renewal application if "the applicant is not applying to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge" I believe that there has been a significant change in both the quantity of waste water and in some of the places of discharge (as outlined below).

2) DRCP states in the cover letter to the application that "none of the changes trigger an amendment to the permit" (DRCP Industrial wastewater Permit Application, dated February 26, 2010 and updated on May 18, 2011). On page 11 of the Application, DRCP states that the "surface area of the disturbance area is approximately 2700 acres; however, active mining area will consist of approximately 1410 acres." Neither of these statements is true.

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TEXAS
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2011 OCT 25 AM 10:11
CHIEF CLERK'S OFFICE

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3) On April 4, 2008, in a letter from North American Coal Co., on behalf of DRCP, to the RRC, dated April 8, 2008, it was stated that the "revised permit area [for the same Eagle Pass mine] covers approximately 6346 acres." (Annex A). This projected increase in size, known **before** DRCP's renewal application to TCEQ (an increase by a factor of 2.35) would, on its face, significantly increase the quantity of waste water to be discharged. (See Annex B – comparison of DRCP's mining areas requested from TCEQ vs. that from RRC).

4) An inspection of the DRCP's permit renewal/revision/expansion application to RRC shows that in its operations schedule (Table 139-1, attached as Annex C) that the total mined area will be 2569 acres.

5) All this might be acceptable to TCEQ if the planned wastewater discharges were to remain in the TCEQ permit area. This is not the case, as will be shown below,

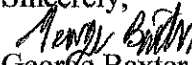
6) The Executive Director's letter of October 7, 2011 (page 7) states that "moving the [sediment] ponds within the boundaries without a permit amendment is currently a provision in the draft permit." Again, this not the case.

7) As shown in DRCP's Operations Map (Exhibit 139-1 to DRCP's application to RRC – attached as Annex D with enlargements of the southwest and southeast mine areas attached as Annexes D-1 and D-2 respectively) there are at least three planned sedimentation ponds (SP) outside the current TCEQ permit area – SP-4, SP-10 and SP-11), It would appear the none of these ponds can discharge wastewater into the outfalls designated in the current TCEQ permit, Instead, it seems that the only discharge route from these three ponds is across private property which is not leased by DRCP.

8) Of particular concern is SP-4, located to service mining area C2 (as shown in Annex D-1). Table 139-1 (Annex C) shows that area C2 is to mined during periods 3 and 4 of mine life operation (2015 and 2016 – with 2015 being within the time frame of the TCEQ permit renewal) Section 148 of DRCP's application to RRC (Annex E) shows that SP-4 will be constructed in 2014. Although DRCP does not say specifically (Table 148-B-1 of DRCP's application to RRC – attached as Annex F), an analysis of surrounding terrain seems to indicates that the only discharge route for SP-4 is directly into Hediondo Creek, a watercourse lying in private property which is not leased by DRCP. DRCP does not currently possess a permit to discharge into this creek.

Based on all these discrepancies in DRCP'S application to renew TPDES Permit No. WQ0003511000, I ask for a reconsideration of the Executive Director's decision not to hold a contested hearing. I believe that only in such a hearing can these irregularities be resolved.

Thank you for your consideration of this request.

Sincerely,

George Baxter

ANNEXES

A – DRCP letter to RRC, April 8, 2008

B – Map – comparison of DRCP's permit areas (TCEQ and RRC)

C – DRCP Operations Schedule (Table 139-1 to RRC application)

D – DRCP Mine Operations Map (Exhibit 139-1 to RRC application) (Enlargements attached as Exhibits D-1 and D-2)

E - DRCP Reclamation Plan : Ponds, embankments, banks, dams and embankments (Section 148 to RRC application)

F – DRCP Sedimentation Pond 4 (Table 148-B-1 to RRC application)

NORTH AMERICAN COAL CORPORATION

April 8, 2008

VIA OVERNIGHT MAIL
Mr. Melvin B. Hodgkiss, P. E.
Director
Surface Mining and Reclamation Division
Railroad Commission of Texas (RCT)
Capitol Station - P. O. Drawer 12967
Austin, TX 78711

SUBJECT: Dos Repùblicas Resources Co., Inc. (DRRC)
Docket No. C5-0003-SC-42-C
Eagle Pass Mine, Permit Renewal/Revision Application; Supplement No. 1

Dear Mr. Hodgkiss:

On behalf of Dos Repùblicas Resources Co., Inc. (DRRC), we are submitting an original and 6 copies of Supplement No. 1 in support of the Renewal/Revision of Permit No. 42. This Supplement No. 1 for the renewal/revision application includes modifications to the mine plan, updated ownership and control information and updated environmental baseline information that contains data collected since the permit was issued on April 11, 2000. An application for renewal/revision of Permit No. 42 for the Eagle Pass Mine in Maverick County, Texas, was filed by Dos Repùblicas Resources Co., Inc. (DRRC), on October 6, 2004. This application was determined to be administratively complete and was filed with the Commission's Office of General Counsel for docketing on October 8, 2004. Due to ongoing litigation, the Commission temporarily suspended processing of the renewal/revision application on March 8, 2005, except for completion of the Initial Technical Analysis (TA) document, until resolution of the issue in the Texas Court of Appeals. The current submittal includes several changes to the mine plan. To facilitate the review of the proposed changes and consolidate the information in a single document, DRRC has opted to submit a new self contained document that includes all proposed revisions to the currently permitted mine plan. We believe this submittal addresses concerns raised in the comments included in the TA, with the changes included in each section of the updated document.

The Eagle Pass Mine area is located in western Maverick County approximately five miles north-northwest of the City of Eagle Pass, Texas. The revised permit area covers approximately 6,346 acres. DRRC understands this renewal/revision represents a significant revision. Our check No. 1938 in the amount of \$3,000 is included for this renewal document.

If you have any questions on the enclosed revision package or require any additional information, please contact us.

Respectfully,

The North American Coal Corporation,
Attorney-In-Fact for Dos Repùblicas Resources Co., Inc.

By: Thomas A. Koza

Thomas A. Koza
Vice President - Law and Administration, and Secretary

LRH/mpm

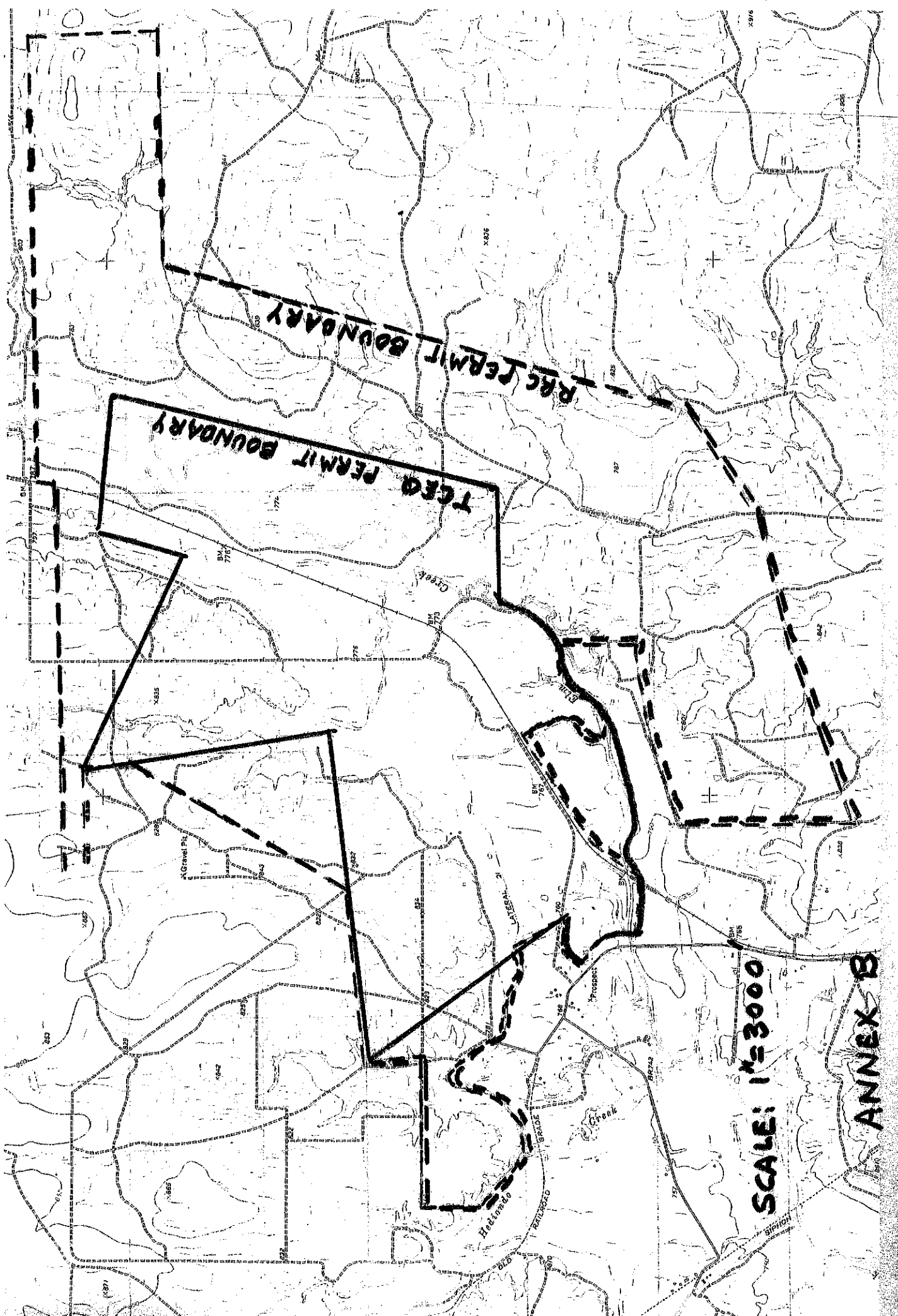
Enclosures: 1 Original Submittal
6 Copies

cc: C. N. Blevins (w/enclosure)
K. R. Huebner (w/enclosure)
Maverick County Courthouse (w/enclosure)

14785 Preston Road Suite 1100 • Dallas, Texas 75254-7891 • 972-239-2625 • Fax 972-387-1328 • www.nacoal.com

ANNEX A

DRCP-0000196



SCALE: 1"=3000'

ANNEX B

Table 139-1
Size, Sequence and Timing of Subareas of Permit for Total Life of Mine

Permit	Year of Approval	Approximate Permit/LOM Acreage
Eagle Pass	2010**	6346
Eagle Pass Second Renewal*	2015***	6346

Size of Subareas		
Year	Acres Mined	Area
Period 1#	383	B
Period 2	55	B
Period 2	393	C1A
Period 2	88	C1B
Period 3	215	C1B
Period 3	67	C2
Period 4	37	C2
Period 4	40	D1
Period 4	238	A1
Period 5-7	1058	A2-D2
Total	2569	

* No new acreage is proposed for life of mine

** Permit term initiates on date of renewal/revision/expansion permit 42A approval

*** 5 years after approval of renewal/revision/expansion permit 42A is approved

A period is one complete calendar year consisting of 365 days

Period 1 is Year 2 of Permit 42A

LAND DISTURBANCE-LOM

MINING DISTURBANCE

3,228 Acres

ANCILLARY DISTURBANCE

1,821 Acres

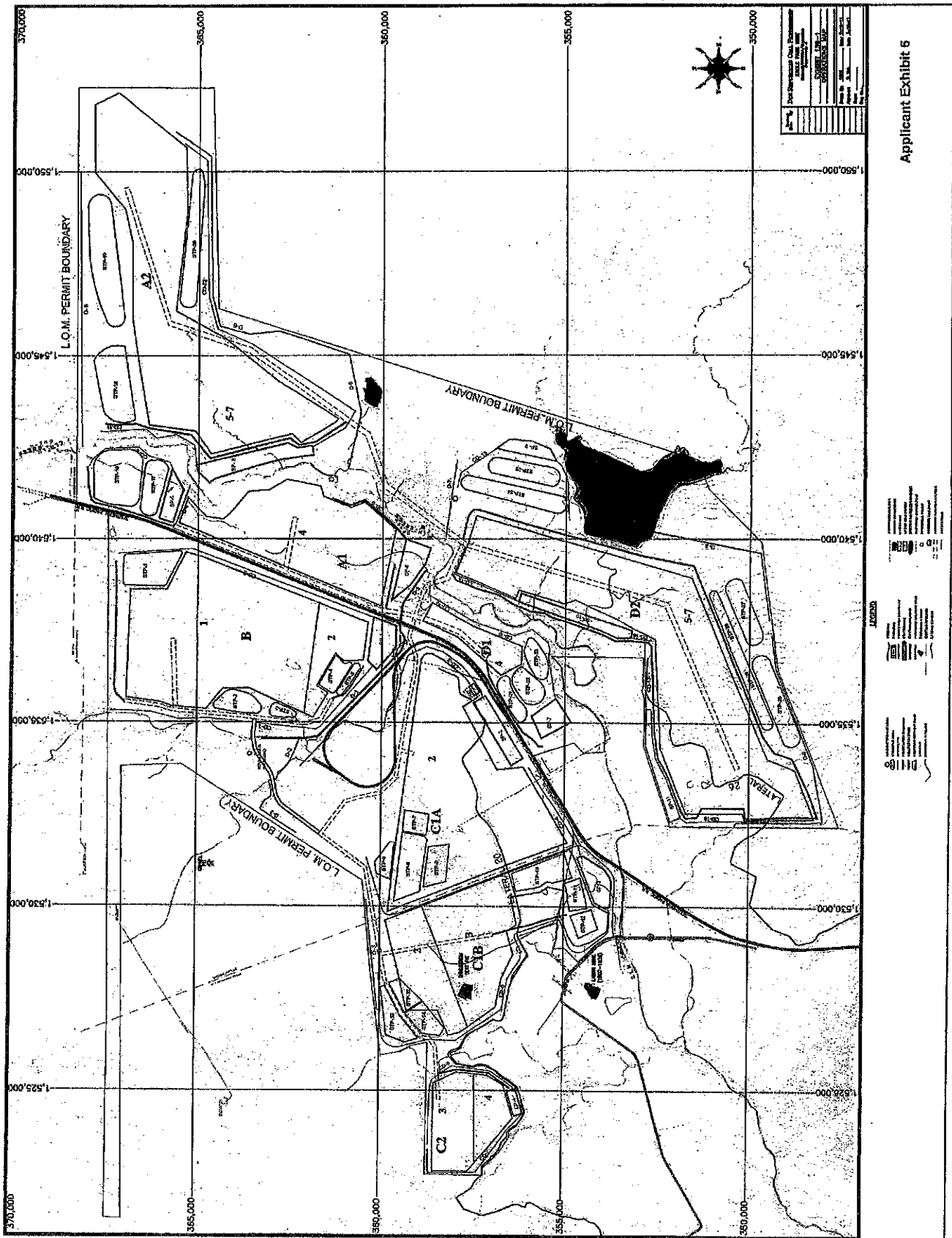
Renewal/Revision/Expansion
 Supplement 3
 5903532v.1

139-11

Eagle Pass Mine
 August 2010

ANNEX C

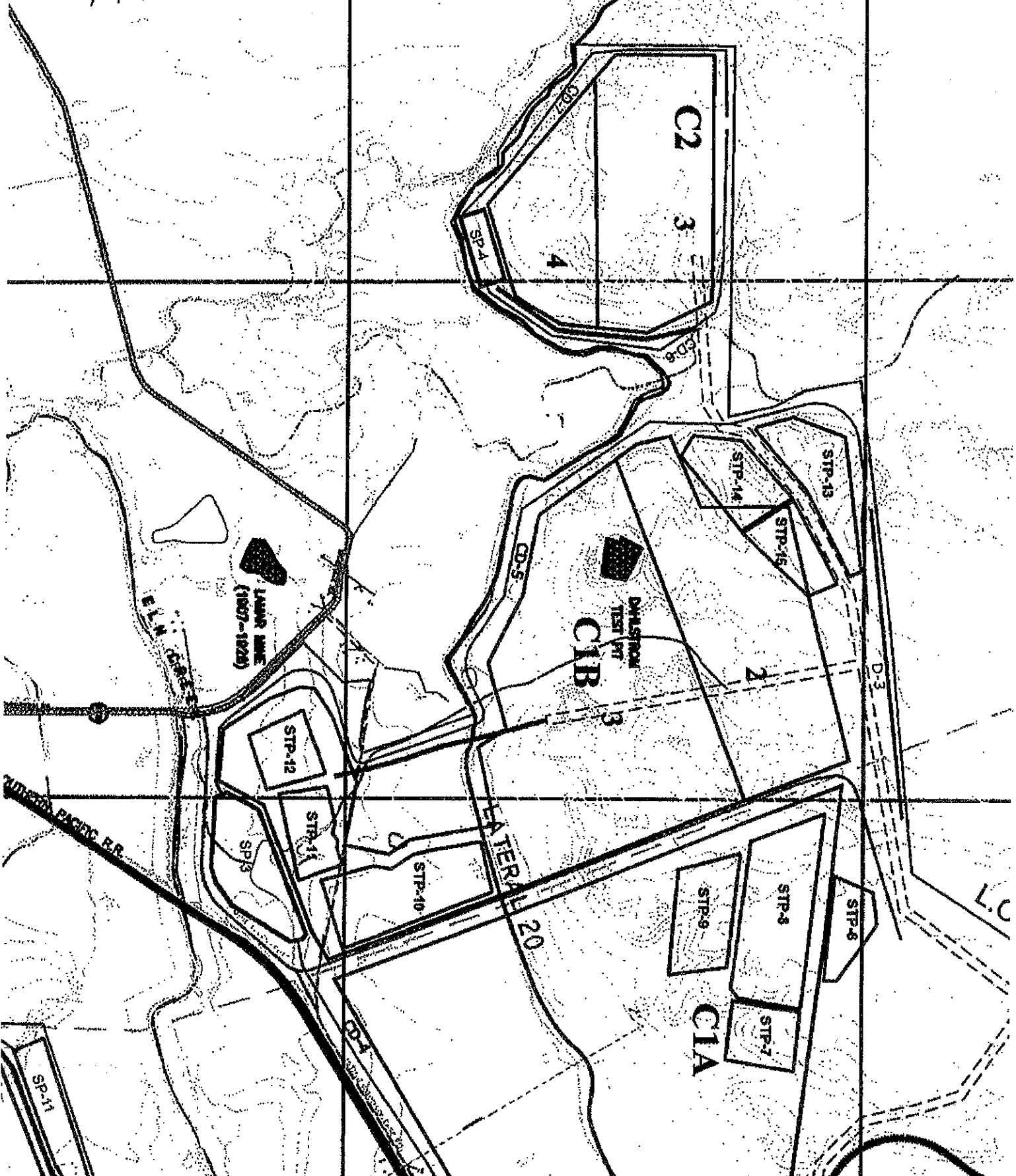
DRCP-0004696



360,000

355,000

ANNEX D-1



DIVISION
TEST PT

CIB

3

LAUREL LAKE
(1807-1826)

ANNEX D-Z

SOUTHERN PACIFIC R.R.

LATERAL 20

CD-17

CD-18

SP-11

LATERAL 26

SP-2

STP-21

ST-7

STP-22

STP-23

4

D1

CD-10

D2

SP-10

CD-16

S-7

D-8

CD-15

STP-27

STP-28

STP-29

STP-28

D-9

ANNEX E

§12.148

RECLAMATION PLAN: PONDS, IMPOUNDMENTS, BANKS, DAMS, AND EMBANKMENTS

148(a)

General

Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

All sedimentation ponds within the permit area have been or will be designed, constructed, and maintained in accordance with §12.344 of the Regulations. Table 148-1 contains a listing of all sedimentation ponds that will be constructed during the initial term of the permit. For each planned impoundment, Table 148-1 includes the identification number of the sedimentation pond, the sediment storage in acre-feet, the runoff storage in acre-feet, the total storage in acre-feet, the projected year that the pond will be constructed and the projected year the pond will be reclaimed or removed. For the term of this permit, Dos Republicas plans to construct the following ponds in the years specified:

<u>Pond Name</u>	<u>Level of Design</u>	<u>Year</u>
SP-1	Detailed	2011
SP-2	Detailed	2011
SP-3	Detailed	2011
SP-4	General	2014
SP-5	General	2014
SP-6	General	2014
SP-7	General	2014

The detailed design plans and hydrologic analyses for the ponds that will be constructed during the initial term of the permit are presented in Attachments 148-C, 148-D, and 148-E. General design plans for sedimentation pond SP-4, SP-5, SP-6, and SP-7 are presented in Attachment 148-B. The operation and maintenance of sedimentation ponds is described in Attachment 148-A. Sedimentation ponds will not be removed until the disturbed areas within the contributing watershed have been restored, the vegetation requirements have been met, and the drainage entering the pond meets applicable effluent limitation standards. When sedimentation ponds are removed, the affected land will be regraded and revegetated in accordance with the performance standard requirements of §§12.383, 12.389 and §12.344(b)(5). If a pond is approved for retention as a permanent impoundment, the pond will meet the requirements for permanent impoundments contained in §12.347 and 12.354.

No impoundments that meet or exceed the criteria of the Mine Safety and Health Administration are proposed or planned for the initial term of this permit.

Also, no coal processing waste banks, dams, or embankments are proposed or planned within the permit area.

Storm Water Pollution Prevention Plan (SWPPP) will be submitted to the mine office to review during inspections once the permit is approved.

ANNEX F

Sedimentation Pond SP-4

Sedimentation pond SP-4 is a temporary impoundment that will be constructed in 2014 in the northwest corner of the permit area and will collect runoff from Mine Block C2. The watershed that will be controlled by this structure encompasses 132 acres, and is delineated in Exhibit 148-B-1. The configuration of the pond will be a combination embankment/incised structure and will employ an open-channel emergency spillway. A typical cross-section of this structure is shown in Figure 148-1. The embankment will be constructed of subsoil removed from the pond containment area. In the event that some of the subsoil at this location is unsuitable embankment fill material, replacement subsoil will be obtained from an off-site location.

Preliminary design data for sedimentation pond SP-4 is shown in Table 148-B-1. This figure contains calculations for the soil cover complex number (CN), runoff volume, and sediment volume by the universal soil loss equation.

If applicable, collection ditches will be constructed to ensure all runoff from the delineated watershed will be collected and treated by sedimentation pond SP-4. Final designs for any collection ditches associated with sedimentation pond SP-4 will be included with the submission of the sedimentation pond final design.



Mr. George D. Baxler
PO Box 951
Eagle Pass, TX 78853-0951

RECEIVED

OCT 25 2011

TCEQ MAIL CENTER
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